

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK FOR
ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

**NOTICE TO BIDDERS
SPECIFICATION NO. 03-238**

The City of Lincoln, Nebraska intends to purchase and invites you to submit a sealed bid for:

**REQUIREMENTS
FOR
MASTER STREET TREE LANDSCAPE SERVICES**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon Wednesday, September 17, 2003 in the office of the Purchasing Agent, Suite 200, K Street Complex, SW Wing, 440 South 8th Street, Lincoln, Nebraska 68508. Bids will be publicly opened and read at the K Street Complex.

A Pre-Bid Conference will be held on Tuesday, September 9, 2003 at 10:30 a. m. at the City of Lincoln Parks and Recreation Administrative Office at 2740 'A' Street, Lincoln, Nebraska 68502. Contact Purchasing at (402) 441-7410 to obtain a copy of the bid specifications or at <http://www.ci.lincoln.ne.us/city/finance/purch/specindx.htm>

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division prior to the time and date specified above.

Company Name _____

**PROPOSAL
SPECIFICATION No. 03-238
MASTER STREET TREE LANDSCAPE SERVICES
FALL 2003**

BIDDING SUMMARY (FROM ATTACHED BIDDING SCHEDULE)

<u>QUAD</u>	<u>STREET TREES</u>	<u>QUAD TOTAL</u>
NE	\$ _____	\$ _____
NW	\$ _____	\$ _____
SE	\$ _____	\$ _____
SW	\$ _____	\$ _____
Total	\$ _____	\$ _____

BID SECURITY: Yes \$500.00 (This will be returned after completion of contracts.)

AFFIRMATIVE ACTION PROGRAM: Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16). The Equal Opportunity Officer will determine compliance or non-compliance, upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

COMPANY NAME _____

PROPOSAL
SPECIFICATION NO. 03-238
MASTER STREET TREE AND LANDSCAPE SERVICES
BID OPENING TIME: 12:00 NOON
DATE: SEPTEMBER 17, 2003

BIDDING SCHEDULE

NE QUAD Street Trees

REQUESTED					
ITEM	QTY	TYPE/SIZE	UNIT PRICE	QUANTITY CAN DELIVER	TOTAL PRICE
1	8	Acer x freemanii 'Jeffersred' P.P. No. 4864 Autumn Blaze Maple B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
2	3	Acer ginnila 'Flame' Amur Maple B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft. single trunk form	_____	_____	_____
3	6	Fraxinus americana 'Autumn Purple Ash', B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
4	16	Fraxinus pennsylvanica 'Patmore' B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
5	1	Gleditsia triacanthos 'Skyline Honeylocust', B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
6	2	Malus 'Donald Wyman' Crab B&B or Cont. 1 ½" - 1 ¾" cal., 5-6 ft. ht., Minimum 3' clear trunk, 7 or more branches	_____	_____	_____
7	2	Pyrus calleryana 'Chanticleer' B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., Branches 5-6 ft. Minimum 3' clear trunk.	_____	_____	_____
8	1	Quercus rubra 'Northern Red Oak' B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., Branches 5-6 ft.	_____	_____	_____
9	4	Tilia cordata 'Greenspire Linden', B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
10	1	Tilia americana 'Redmond Linden', B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____

NE Quad Street Tree Bid Amount

\$ _____

Acceptable Street Tree Substitute Species for NE Quad

:

'Autumn Brilliance' Amelanchier for 'Zumi Calocarpa' Crab.

'Autumn Purple' Ash for 'Patmore' Ash.

'Autumn Blaze' Maple for 'Red Sunset' Maple.

'Bur Oak' for Swamp White Oak'.

'Capital' Pear for 'Chanticleer' Pear.

'Deborah' Maple for 'Schwedler' Maple.

'Greenspire' Linden for 'Redmond' Linden.

'Imperial' Honeylocust for 'Skyline' Honeylocust.

'Liset' Crab for 'Prairifire' Crab.

'Patmore Ash' for 'Autumn Purple' Ash.

'Professor Sprenger Crab' for 'Donald Wyman Crab'

'Summershade' Norway Maple for 'Emerald Lustre' Norway Maple.

'Autumn Blaze' Maple for Northern Red Oak

COMPANY NAME _____

BIDDING SCHEDULE
NW Quad - Street Trees

<u>ITEM</u>	<u>QTY</u>	<u>REQUESTED TYPE/SIZE</u>	<u>UNIT PRICE</u>	<u>QUANTITY CAN DELIVER</u>	<u>TOTAL PRICE</u>
1	20	Acer x freemanii 'Jeffersred' PP No. 4864 Autumn Blaze Maple B&B, or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
2	8	Fraxinus americana 'Autumn Purple Ash' B&B, or Cont. 1 ½" - 1 ¾" cal.,10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
3	7	Fraxinus pennsylvanica 'Patmore Ash' , B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
4	1	Gleditsia triacanthos 'Skyline Honeylocust', B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
5	1	Malus 'Donald Wyman' Crab, B&B or Cont. 1"-1 ¼" cal., 5-6 ft. ht.,minimum 3' clear trunk, 7 or more branches	_____	_____	_____
6	3	Pyrus calleryana 'Aristocrat Pear' B&B or Cont. 1 ½"-1 ¾" cal., 10-12 ft. ht., branches 5-6 ft. Minimum 3' clear trunk, 7 or more branches	_____	_____	_____
8	4	Tilia cordata 'Greenspire Linden', B&B,or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht, branches 5-6 ft.	_____	_____	_____

NW Quad Street Tree Bid Amount \$ _____

Acceptable Street Tree Substitute Species for NW Quad:

'Autumn Purple' Ash for 'Patmore' Ash.
'Patmore' Ash for 'Autumn Purple' Ash.
'Greenspire' Linden for 'Redmond' Linden.
'Imperial' Honeylocust for 'Skyline' Honeylocust.
'Summershade' Norway Maple for 'Emerald Lustre' Norway Maple.
'Bur Oak' for 'Swamp White Oak'.
'Redspire' Pear for 'Aristocrat' Pear.
'Capital' Pear for 'Chanticleer' Pear.
'Deborah' Maple for 'Schwedler' Maple.
'Autumn Brilliance' Amelanchier for 'Zumi Calocarpa' Crab.
'Liset' Crab for 'Prairifire' Crab.
'Swamp White Oak' for 'Bur Oak'.
'Autumn Blaze' Maple for 'Red Sunset' Maple.
'Professor Sprenger Crab' for 'Donald Wyman Crab'

Company Name_____

BIDDING SCHEDULE
SE Quad - Street Trees

<u>ITEM</u>	<u>QTY</u>	<u>REQUESTED TYPE/SIZE</u>	<u>UNIT PRICE</u>	<u>QUANTITY CAN DELIVER</u>	<u>TOTAL PRICE</u>
1	51	Acer x freemanii 'Jeffersred' PP No. 4864 Autumn Blaze Maple B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
2	2	Acer ginnila 'Flame' Amur Maple B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft, single trunk form	_____	_____	_____
3	4	Acer platanoides 'Columnar Norway' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
4	3	Acer rubrum 'Deborah' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
5	25	Fraxinus americana 'Autumn Purple Ash', B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
6	28	Fraxinus pennsylvanica 'Patmore Ash' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
7	12	Malus 'Donald Wyman Crab', B&B or or Cont. , 1" - 1 ¼" cal., 5-6 ft. ht.,minimum 3' clear trunk, 7 or more branches	_____	_____	_____
8	8	Malus 'Prairifire Crab', B&B or or Cont. , 1" - 1 ¼" cal., 5-6 ft. ht.,minimum 3' clear trunk, 7 or more branches	_____	_____	_____
9	35	Pyrus calleryana 'Aristocrat Pear', B&B, or Cont. 1 ½" - 1 ¾" cal., minimum 3' clear trunk, 7 or more branches	_____	_____	_____
10	7	Quercus rubra 'Northern Red Oak' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____

COMPANY NAME _____

<u>ITEM</u>	<u>QTY</u>	<u>REQUESTED TYPE/SIZE</u>	<u>UNIT PRICE</u>	<u>QUANTITY CAN DELIVER</u>	<u>TOTAL PRICE</u>
11	6	Syringa reticulata 'Ivory Silk' Ivory Silk Japanese Tree Lilac B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft., single truck form	_____	_____	_____
12	10	Tilia cordata 'Greenspire Linden', B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht, branches 5-6 ft.	_____	_____	_____
13	2	Tilia americana 'Redmond Linden', B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht, branches 5-6 ft.	_____	_____	_____

SE Quad Street Tree Bid Amount

\$_____

Acceptable Street Tree Substitute Species for SE Quad:

'Autumn Brilliance' Amelanchier for 'Zumi Calocarpa' Crab.
'Autumn Purple' Ash for 'Patmore' Ash.
'Autumn Blaze' Maple for 'Red Sunset' Maple.
'Bur Oak for Swamp White Oak'.
'Capital' Pear for 'Chanticleer' Pear.
'Deborah' Maple for 'Schwedler' Maple.
'Greenspire' Linden for 'Redmond' Linden.
'Imperial' Honeylocust for 'Skyline' Honeylocust.
'Liset' Crab for 'Prairifire' Crab.
'Patmore Ash' for 'Autumn Purple' Ash.
'Professor Sprenger Crab' for 'Donald Wyman Crab'
'Redspire' Pear for 'Aristocrat' Pear.
'Summershade' Norway Maple for 'Emerald Lustre' Norway Maple.
'Swamp White Oak for Bur Oak.
'Skyline Honeylocust for Kentucky Coffee Tree'

COMPANY NAME _____

BIDDING SCHEDULE
SW Quad - Street Trees

<u>ITEM</u>	<u>REQUESTED QTY</u>	<u>TYPE/SIZE</u>	<u>UNIT PRICE</u>	<u>QUANTITY CAN DELIVER</u>	<u>TOTAL PRICE</u>
1	27	Acer x freemanii 'Jeffersred' PP No. 4864 Autumn Blaze Maple B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
2	4	Acer ginnila 'Flame' Amur Maple B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft., single trunk form	_____	_____	_____
3	14	Fraxinus americana 'Autumn Purple Ash', B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
4	14	Fraxinus pennsylvanica 'Patmore Ash' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
5	2	Gleditsia triacanthos 'Skyline Honeylocust' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
6	5	Malus 'Donald Wyman Crab', B&B or Cont. , 1" -1 ¼" cal., 5-6 ft. ht., minimum 3' clear trunk, 7 or more branches	_____	_____	_____
7	3	Malus 'Prairifire Crab', B&B, or Cont. , 1" - 1 ¼" cal., 5-6 ft. ht., minimum 3' clear trunk, 7 or more branches	_____	_____	_____
8	1	Malus 'Zumi' Crab, B&B, or Cont. 1 ½" - 1 ¾" cal., minimum 3' clear trunk, 7 or more branches	_____	_____	_____
9	3	Pyrus calleryana 'Aristocrat Pear', B&B, or Cont. 1 ½" - 1 ¾" cal., minimum 3' clear trunk, 7 or more branches	_____	_____	_____
10	4	Quercus rubra 'Northern Red Oak' B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____
11	10	Tilia cordata 'Greenspire Linden', B&B, or Cont. 1 ½" - 1 ¾" cal., 10-12 ft. ht., branches 5-6 ft.	_____	_____	_____

SW Quad Street Tree Bid Amount

\$ _____

Acceptable Street Tree Substitute Species for SW Quad:

'Autumn Purple' Ash for 'Patmore' Ash.
'Autumn Blaze' Maple for 'Red Sunset' Maple.
'Bur Oak for Swamp White Oak'.
'Capital' Pear for 'Chanticleer' Pear.
'Deborah' Maple for 'Schwedler' Maple.
'Greenspire' Linden for 'Redmond' Linden.
'Imperial' Honeylocust for 'Skyline' Honeylocust.
'Liset' Crab for 'Prairifire' Crab.
'Patmore Ash' for 'Autumn Purple' Ash.
'Professor Sprenger Crab' for 'Donald Wyman Crab'
'Redspire' Pear for 'Aristocrat' Pear.
'Summershade' Norway Maple for 'Emerald Lustre' Norway Maple.
'Swamp White Oak for Bur Oak.

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

RETURN 2 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.
MARK OUTSIDE OF BID ENVELOPE: SEALED BID FOR SPEC. 03-238

COMPANY NAME

BY (Signature)

Street Address or P.O. Box

(Print Name)

City, State Zip Code

(Title)

Telephone No. FAX No.

(Date)

EMPLOYER'S FEDERAL I.D. NO.OR SOCIAL
SECURITY NUMBER

ESTIMATED DELIVERY DAYS after receipt of order

TERMS OF PAYMENT

E-MAIL ADDRESS

All bidders must submit a completed bid PROPOSAL vendor questionnaire and any other required information in order to be considered for award of contract for specified materials and/or services.

VENDOR SUPPLEMENTAL QUESTIONNAIRE

The following information must be submitted with the bid proposal and will be considered when bids are evaluated.

- 1. Company name, address, name and phone number of contact person:**

- 2. Names, employment status and number of personnel who will be used to plant trees:**

Employment Status
(Permanent Full-Time/Part-Time)

Person

How Long Employed

3. List significant tree planting projects done in the past 5 years and references who can be contacted regarding such projects:

<u>Project</u>	<u>Approximate # of Trees Planted</u>	<u>Contact</u>	<u>Phone #</u>
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4. Equipment to be used to transport, deliver and/or plant trees:

5. How will watering of trees be done at time of planting (equipment and method used, water source, etc.):

INSTRUCTIONS TO BIDDERS

CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

1. BIDDING PROCEDURE

- 1.1 Bidder shall submit two (2) complete sets of the bid documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidder shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 1.5 A bid by a firm or organization other than a corporation must include the name and address of each member.
- 1.6 A bid by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Bids received after the time and date established for receiving bids will be rejected.

2. BIDDER'S SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated of the Proposal Form.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
 - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.

- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:

- 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
- 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

3. EQUAL OPPORTUNITY

- 3.1 Each bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Bidder shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code.
- 3.2 Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16).
- 3.3 The Equal Opportunity Officer will determine compliance or non-compliance with the City's Affirmative Action Policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

4. DATA PRIVACY

- 4.1 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 4.2 The bidder agrees to hold the City harmless from any claims resulting from the bidder's unlawful disclosure or use of private or confidential information.

5. BIDDER'S REPRESENTATION

- 5.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 5.2 Each bidder for services further represents that the bidder is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 7.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 7.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to the date and time for receipt of bids.
- 7.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 7.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

8. ADDENDA

- 8.1 Addenda are written instruments issued by the City prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 8.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 8.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 8.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 8.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

9. ANTI-LOBBYING PROVISION

- 9.1 During the period between the bid close date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the City Council or City Staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

10. BRAND NAMES

- 10.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 10.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 10.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number from the specification document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.

- 10.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

11. DEMONSTRATIONS/SAMPLES

- 11.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 11.2 Such demonstration can be at the City delivery location or a surrounding community.
- 11.3 If bidder does not have an item in the area, it will be at the bidder's expense to send appropriate City personnel to the nearest location to view and inspect proposed item(s).
- 11.4 If items are small and malleable, and the bidder is proposing an alternate product, the bidder MUST supply a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

12. DELIVERY

- 12.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 12.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 12.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.

13. WARRANTIES, GUARANTEES AND MAINTENANCE

- 13.1 Copies of the following documents must accompany the bid proposal for all items being bid:
 - 13.1.1 Manufacturer's warranties and/or guarantees.
 - 13.1.2 Bidder's maintenance policies and associated costs.
- 13.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.
- 13.3 Bidder Warrants and represents to the City that all software/firmware/ hardware/equipment /systems developed, distributed, installed or programmed by Bidder pursuant to this Specification and Agreement.
 - 13.3.1 That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data, during Leap years; and
 - 13.3.2 That all date sorting by the software /firmware/hardware/ equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by the City of the failure of any software/ firmware/ hardware /equipment /systems to comply with this Specification and Agreement, Contractor will, within 60 days and at no cost to the City, replace or correct the non-

complying software/ firmware/ hardware/ equipment/ systems with software/firmware/ hardware/equipment/ systems that does comply with this Specification and Agreement.

- 13.3.3 No Disclaimers: The warranties and representations set forth in this section 13.3 shall not be subject to any disclaimer or exclusion of warranties or to any limitations of Licensor's liability under this Specification and Agreement.

14. ACCEPTANCE OF MATERIAL

- 14.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 14.2 Material delivered under this proposal shall remain the property of the bidder until:
- 14.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
- 14.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 14.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 14.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 14.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

15. BID EVALUATION AND AWARD

- 15.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 15.2 No bid shall be modified or withdrawn for a period of sixty (60) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 15.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 15.4 The bid will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the City, and as the City deems will best serve their requirements.
- 15.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the City.

16. INDEMNIFICATION

- 16.1 The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss or use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 16.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 16.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

17. TERMS OF PAYMENT

- 17.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

18. LAWS

- 18.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

INSURANCE CLAUSE TO BE USED FOR ALL CITY CONTRACTS

The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the negligence of the City of Lincoln, Nebraska.

Contractor shall not commence work under this contract until he has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any sub-contractor to commence work on his subcontract until all similar insurance required of the sub-contractor has been so obtained and approved.

A. Worker's Compensation Insurance and Employer's Liability Insurance

The Contractor shall take out and maintain during the life of this contract the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance in this state covering all his employees, and in the case of any work sublet, the Contractor shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. The Contractor shall take out and maintain during the life of this contract, Employer's Liability Insurance with a limit of \$100,000 in an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each of his subcontractors similarly to maintain common law liability insurance on his employees.

State	Statutory
Applicable Federal	Statutory
Employer's Liability	\$100,000

B. General Liability Insurance

1. The Contractor shall maintain during the life of this contract, General Liability Insurance, naming and protecting him and the City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) bodily injury, including wrongful death, (b) personal injury liability, and (c) property damage which may arise from operations under this contract whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

A. Bodily Injury/Property Damage	\$1,000,000 each Occurrence
	\$2,000,000 Aggregate
B. Personal Injury Damage	\$1,000,000 each Occurrence
C. Contractual Liability	\$1,000,000 each Occurrence
D. Products Liability & Completed Operations	\$1,000,000 each Occurrence

2. The General Liability Insurance required by the preceding paragraph shall include the following extensions of coverage:
 - (a) The coverage shall be provided under a Commercial General Liability form or similar thereto.
 - (b) X.C.U. Coverage - if the contract requires any work procedures involving blasting, excavating, tunneling or other underground work, the liability coverage shall include Standard Blasting or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverage commonly referred to as XCU Property Damage Liability.
 - (c) The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
 - (d) Contractual Liability coverage shall be included.
 - (e) Products Liability and/or Completed Operations coverage shall be included.
 - (f) Personal Injury Liability coverage shall be included.

C. Automobile Liability Insurance

The Contractor shall take out and maintain during the life of the contract such Automobile Liability Insurance as shall protect him against claims for damages resulting from bodily injury, including wrongful death, and property damage which may arise from the operations of any owned, hired, or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage \$1,000,000 Combined Single Limit

D. Builder's Risk Insurance (For Building Construction Contracts Only)

Unless otherwise specified where buildings are to be constructed under this contract, the Contractor shall provide and maintain fire, extended coverage, vandalism, and malicious mischief insurance, covering such building in an amount equal to one-hundred percent (100%) of the contract amount (minimum), as specified herein.

Losses, if any, shall be made payable to the City of Lincoln and Contractor as their interest may appear. A Certificate of Insurance evidencing such insurance coverage shall be filed with the City of Lincoln by the time work on the building begins and such insurance shall be subjected to the approval of the City Attorney.

E. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City of Lincoln.

F. Certificate of Insurance

All certificates of insurance shall be filed with the City of Lincoln on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by the preceding Sections A, B, C, D, and showing the City of Lincoln as a named additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction of insurance coverage.

SPECIAL PROVISIONS & REGULATIONS

1. SCOPE

- A. The City of Lincoln is soliciting bids from certified and qualified nursery growers, nurseries and/or landscape contractors for the following: to furnish, deliver and plant specified types, sizes and quantities of either container, and/or balled and burlapped tree nursery stock. Plant material grown in appropriately sized containers may be substituted for balled and burlapped (B&B) Street Trees and /or Park Trees.
- B. Bid is to include cost of trees, delivery, labor and materials to plant them on public property at numerous locations in the City of Lincoln.
- C. All trees shall be furnished, delivered and planted after September 1 and no later than December 1, 2003.
- D. The City of Lincoln reserves the right to award separate contracts by quad, by street trees or park trees, or any combination thereof, or to award one contract for the complete project.
- E. In determining the low responsible bid(s), consideration may be given to ability, capacity, efficiency, integrity and skill of the bidder to comply with the specifications and perform the work required by the contractor, as determined from the quality of the bidder's performance of previous work.
- F. The personnel must be qualified, trained and experienced in planting landscape plants and must be either full-time and/or part-time seasonal employees of the nursery contractor. The names of personnel to be involved with the tree planting project and how long they have been employed must be listed on the vendor supplemental questionnaire that is to be submitted with the bid proposal. In addition a listing of prior significant landscape construction projects and references must also be provided. Failure to provide such information shall be reason to reject bids submitted. Under no circumstances will temporary day labor be allowed to plant trees.

2. TERMS OF AGREEMENT

- A. **STANDARD SPECIFICATIONS:** Sections of the City of Lincoln, Nebraska, Standard Specifications for Municipal Construction including General Provisions and Requirements, and the attached specification for landscape materials and construction which supersedes Chapter 31 of the Standard Specifications apply to this contract.
- B. It is the intent of the City of Lincoln to implement a Fall 2003 agreement with the successful bidder or bidders.
- C. The duration of the resulting agreement will be from the time the successful bidder(s) signs a contract with the City of Lincoln until the time when all contract obligations have been completely and satisfactorily fulfilled.
- D. Bid prices in response to this solicitation will be firm for the full term of the contract agreement.
- E. The City of Lincoln shall have the right to increase or decrease specified plant material quantities by fifteen percent (15%) prior to the date of delivery with no change in bid unit prices.
- F. The Contractor shall be responsible for transportation and installation of wood chips. Mulch shall be applied upon completion of watering and shall cover all disturbed earth.
- G. Should the Contractor not be able to deliver, install and service the requested material within the time specified, the city reserves the right to purchase materials and services on the open market.
- H. Tree guards shall be installed on all deciduous trees. The guards shall be plastic and will be provided by the City.

3. PROVISIONS

Bare root material shall not be used nor accepted for any part of this contract.

An anti-transpirant may be required to be applied by the contractor on plant materials that are selected by the City

to reduce transplanting stress and/or mortality. The anti-transpirant shall be an emulsion that provides a protective film over the plants foliar surfaces and is not toxic to any of the plant materials in this contract, furthermore, this product shall be manufactured specifically for such horticultural applications.

ADDITIONAL INFORMATION

For additional information concerning the specifications or services required for this bid, interested parties may contact the City Arborist at 441-7036. For information concerning bid procedures and regulations (i.e. deadline date to submit bid, forms required, etc.) interested parties may contact Vince Mejer, City Purchasing Agent, at 441-7417.

CITY OF LINCOLN NEBRASKA, STANDARD SPECIFICATIONS
Chapter 31.00
LANDSCAPE WORK

ARTICLE	TITLE
31.00	Description
31.01	Planting Season
31.02	Materials <ul style="list-style-type: none">A. General RequirementsB. Nursery Grown Plant MaterialsC. MulchD. StakesE. Support TiesF. Tree Wrap
31.03	Receiving and Storing of Plant Material
31.04	Transporting Plants to the Planting Site
31.05	Location of Plant Material
31.06	Installation of Plant Material
31.07	Pruning of Plant Material
31.08	Staking and Support of Plant Material
31.09	Marking Park Trees
31.10	Care instructions for Street Trees
31.11	Acceptance and Establishment Period
31.12	Replacement of Plant Material and Guarantee Period
31.13	Vandalism
31.14	Qualifications for Submitting Bids
31.15	Requirements for Submitting Bids

CHAPTER 31.00 LANDSCAPE WORK

31.00 DESCRIPTION

- A. Nomenclature used in these Specifications and the Special Provisions, and the plans shall conform to the standard nomenclature established in "Hortus Third"; American Standard for Nursery Stock (ANSI Z60.1-1996) or the Tree and Shrub Transplanting Manual, 1991 or current revision.
- B. Plant material shall mean trees, shrubs, vines, ground covers and plants of all descriptions, required to be furnished for the project, in accordance with these Specifications, the Special Provisions, and the details shown in the plans.
- C. This work shall consist of furnishing, delivering and planting of plant material and all operations incidental thereto, in accordance with these Specifications, the Special Provisions, and the details shown in the plans.

31.01 PLANTING SEASON

Within thirty days after receiving the signed contract, the Contractor shall submit a written list of the nurseries from whom the Contractor will purchase the plant material, and the source where the plant material was grown. The list shall be submitted to the City Arborist or the Engineer. The Contractor will be notified if there are any unapproved sources of plant materials on the list. Plant materials from unapproved sources will be considered for rejection.

The planting season for all plant material shall be: Fall Planting season shall be from September 15 to December 1 for all coniferous materials and from September 15 to December 1 for all deciduous materials; Spring Planting season shall be from March 1 to May 15 for all coniferous materials and from March 1 to May 15 for all deciduous materials. Planting operations shall be performed during this season only, except when prior written permission is obtained from the City Arborist or the Engineer. The actual planting shall be performed during those times in this season which are normal for such work as determined by weather conditions, and accepted practice in the locality.

31.02 MATERIALS

A. General Plant Material Requirements

- 1. All plant material shall conform to the American Standard for Nursery Stock (ANSI Z60.1-1996 or most current)
- 2. All plant material shall comply with all applicable State and Federal laws, including inspection certifications which shall include the project number and the plant material that the certification covers. All plant material is subject to inspection by representatives of the State and Federal Governments.
- 3. All plant material furnished shall be true to name and type and legible labels shall be furnished to insure that all species, varieties, boxes, bundles, bales or other containers are identified. The information on the label shall cover the botanical genus, species, and common name, size or age of each species or variety.
- 4. All plant material shall be sound, healthy specimens and first-class representatives of their species or variety, and shall have well formed tops and healthy root systems.
- 5. Plant materials which lack proper proportions, or have serious injuries to the bark or roots, broken branches, objectionable disfigurements, shriveled dry roots, broken balls, insect pests, diseases, or which are not found to comply with these Specifications in any way shall be rejected. Rejected plant material shall be removed from the project as soon as practical.
- 6. Plant materials which are planted and later discovered to be not true to name, may be allowed to remain in place without payment being made therefor.
- 7. A representative sample of all container grown and/or pot grown material shall be submitted to the City Arborist or the Engineer for approval prior to planting if requested.

8. All balled and burlapped (B & B) and container grown plant material is subject to internal examination of the ball at any time to ascertain the condition of the roots and surrounding soil ball.
9. Any plant material that is planted which does not meet the specified minimum size prior to pruning shall be rejected or allowed to remain in place without payment being made therefor.
10. If a Contractor is unable to locate sufficient plant material in specified sizes, negotiation for unit price reduction shall be concluded prior to planting.
11. All plant materials shall be of normal growth and uniform height, according to species, with straight trunks and developed leaders, roots, and crowns. Heeled in stock will not be acceptable. Plants cut from larger sizes to meet bid specifications shall not be accepted.
12. All plant material shall be true to species and variety specified and nursery grown in accordance with good horticultural practices. Plant material collected from wild or native stands will not be accepted, nor that which is sheared.
13. Coniferous trees (i.e., pines, firs, spruce) which have been sheared, will not be accepted. All coniferous trees shall have a single leader with a viable bud. Trees with multiple leaders may be pruned leaving a single leader, providing that the resulting form is characteristic of the species.
14. All plant material shall be sound, healthy, vigorous, well branched and densely foliated if in leaf, free of disease, insects, eggs or larvae and shall have healthy, well developed root systems. They shall be free from physical or mechanical damage or conditions that would prevent thriving growth.
15. The bark of woody plant material shall be healthy and firm with no indications of fungus, cankers or galls, insect bores, die back, frost cracks, sun scald or mechanical injury. Any of these defects shall be reason for rejection.
16. All plant material shall exhibit adequate and healthy twig growth and have well formed live buds. Branches shall diverge from the trunk at a wide angle, except in those varieties that normally grow in narrow upright forms. Plants shall have normal, well developed branches, be uniformly and fully branched as seen from all sides, have good crotch angles and a vigorous root system. All plants shall be first class representatives of their species or variety.
17. Trees with multiple leaders, unless specified, shall be rejected.
18. Plants that meet specified sizes, but do not possess a normal balance between height and spread shall be rejected.
19. Plant material with a damaged or crooked leader or having pruning cuts over 3/4 inch in diameter that are not completely callused, shall be rejected.
20. All plant material is subject to visual inspection by the City Arborist or Engineer prior to installation. All plant material shall be assembled in one location to permit inspection if requested. The supplier of plant materials shall notify the City Arborist for street trees and the Engineer for park trees at least five (5) working days prior to delivery so that a mutually agreeable time can be arranged for inspection, if requested by the City.
21. Substitution of specified plant material shall not be permitted unless authorized by the City Arborist or the Engineer.
22. Plants shall conform to the measurements specified, except that plants larger than those specified may be used if approved by the City Arborist or the Engineer. Use of larger plants shall not be cause for claims for additional payment. If larger plants are approved, the root system, container and/or root ball shall be increased in proportion to the size of plant.
23. Caliper measurements shall be taken on the trunk six (6) inches above the natural ground line for trees up to four (4) inches in caliper and twelve (12) inches above the natural ground line for trees over four (4) inches in caliper. Height and spread dimensions specified refer to the main body of the plant and not from branch tip to branch tip. Plants shall be measured when branches are in their normal position.

24. If a range of size is given, no plants shall be less than the minimum size and no less than fifty percent (50%) of the plants shall be as large as the maximum specified. Measurements specified are minimum size acceptable after pruning, where pruning is required. Plants that meet height and spread but do not possess a normal balance between height and spread shall be rejected.
25. Plant material specifications for street trees will establish the height to which trees should be free of branching. Height of branching should bear a relationship to the size and kind of tree so that the crown of the tree will be in good balance with the trunk (i.e. to $\frac{1}{2}$ the total height of the tree is a trunk free of branching and the other $\frac{1}{2}$ to is a well branched tree crown). Refer to Section 1, ANSI Z60-1996 or most current. Branching height for specified plant materials will be noted on the bid proposal and all bidders should be aware of this specification. Plant material not meeting this specification may be rejected by the City.
26. The minimum height growth for pine trees shall be as follows: a) trees 3 - 5 feet in height shall have at least 2 feet of new height growth during the last 2 growing seasons, and b) trees 5 foot and over in height must have at least 3 feet of new height growth during the last 3 growing seasons.

B. Nursery Grown Plant Materials

1. All plant materials shall be "nursery grown" by established commercial nurseries and sold to and installed by licensed and certified nurseries and/or landscape contractors.
2. Fresh dug material is given preference over plant material held in storage. Plant material held in storage may be rejected if excessive growth has occurred in storage.
3. Unnecessary injury to or removal of fibrous roots from the plant material is cause for rejection of the plant materials. The soil for balled material shall be in such condition so as to insure no crumbling or cracking. Balls shall be wrapped with burlap prior to removal from the ground. The burlap shall be held in place with cord and pinning nails. Handling of balled and burlapped material shall be in such a manner as to keep the soil intact. Plant material on which earthen balls do not hold together or which crack in handling shall be rejected.
4. Balled plant material shall have a solid ball of soil of adequate size held in place securely and wrapped with burlap and tightly bound with twine or rope. Soil balls may also be secured with wire baskets
5. Bare root plant material shall have abundant root growth and fibrous feeder roots with good color and moisture. Kinked, circling and/or girdling roots are not acceptable and plant material having such root systems shall be rejected.
6. Container grown plant material shall be well established in their containers. Container plant material which shows evidence of being root bound, overgrown, recently canned or which has girdling roots shall be rejected.
7. A processed balled shade or flowering tree (i.e., a tree dug bare root, while dormant, to which a growing medium is added around the roots to form a ball) shall not be acceptable.

C. Mulch

Mulch shall be wood chips or bark chips and shall not contain any twigs or foreign material.

D. Stakes

Stakes shall be 2 inch x 2 inch wooden stake of suitable length to adequately support the plant material. The top six inches of the stake shall be painted with red paint as a safety warning feature. Typically, stakes will be a minimum of six (6) feet in length. Stakes shall be driven at least 12" into the soil for secure support. (Refer to detail on page 3107)

E. Support Ties

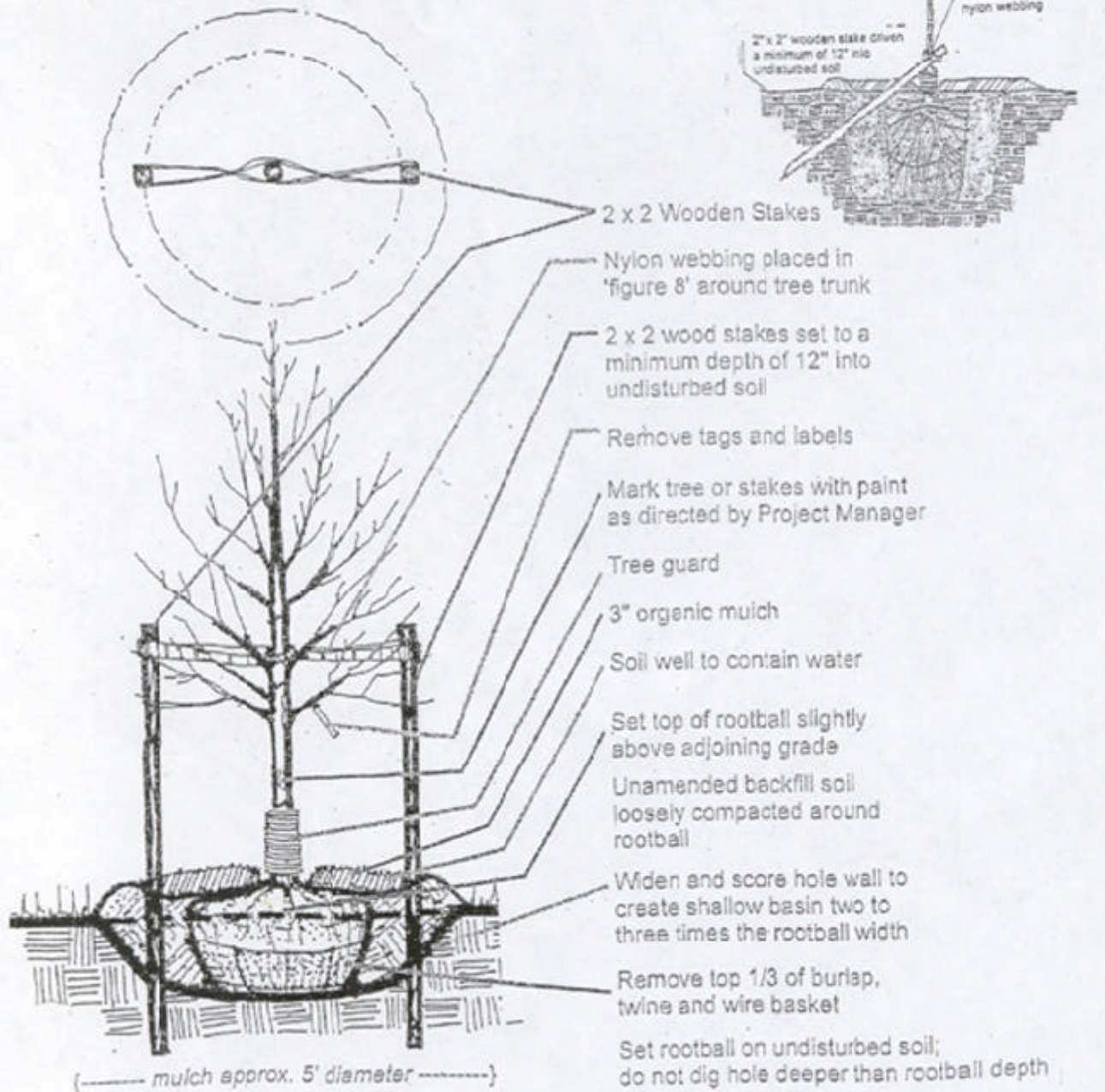
No metal wire or rubber hose shall be used in supporting trees. Trees should be secured to stakes using a fabric type of tree tie (i.e. Arbor Tie). The support shall be tied in a figure eight (8) loop between the tree and the stake(s) to allow for flexibility. Do not tie trees too rigidly to stakes.
(Refer to detail on page 3107)

F. TREE WRAP

Tree wrap shall not be used on any trees planted in association with this contract. All existing tree wrap, cardboard or styrofoam, if any, shall be removed from trunks immediately after planting.

using a single stake driven
at a 45 degree angle to the ground

DECIDUOUS TREE PLANTING DETAIL



PLAN VIEW

Not to scale

Standard Specifications - Chapter 31 - LANDSCAPE WORK

3017

31.03 RECEIVING AND STORING OF PLANT MATERIALS

- A. Storage facilities for plant material must receive approval of the City Arborist or the Engineer prior to delivery of the plant material. The storage facility shall have an adequate water supply, shade, good ventilation, and protection from drying winds.
- B. Plant material that cannot be planted immediately on delivery shall be kept in storage, and well protected with wet soil, sawdust, wood chips, shingle tow, moss, peat, straw, hay or other acceptable moisture holding media. Plant material stored in the above manner shall be kept well watered.

31.04 TRANSPORTING PLANTS TO THE PLANTING SITE

- A. Delivery and/or the planting of street trees shall be coordinated with the City Arborist or Engineer at (441-7847) at least 24 hours before planting or delivery. The successful bidder(s) shall notify the Arborist or Engineer as soon as possible when specified plant materials have been received so coordination of deliveries and/or plantings can be made. Plants shall be subject to inspection for conformity to specification requirements and approval by the City upon delivery and/or at time of planting, unless a request has been made for inspection prior to delivery.
- B. Prevention of mechanical damage to plant material (i.e., crown, trunk or roots) and protection of root systems and crowns from drying during transportation, delivering and/or planting shall be the responsibility of the successful bidder(s). Plant materials shall not be removed from storage prior to complete preparation of the planting site for immediate planting.
- C. Loading. Care shall be taken to protect the trunk, branches and roots from abrasions and breakage when loading, transporting, unloading and/or planting. Plants too tall to be transported in an upright position must be tipped to a horizontal position. Branches must be tied prior to tipping to prevent breaking branches and bruising of the bark. The trunk and top must be supported when plants are tilted to a horizontal position. The trunk must be blocked near the ball and tied secure for support. Trunks shall be padded to prevent bruising and tops tied securely to the bed of the truck or trailers.
- D. Transporting. Plants are to be transported by truck or low trailer. Bare-roots shall be covered with moist peat moss, sphagnum, sawdust, straw or wood chips before transporting. Plants shall have their tops tied in and be packed tightly on the truck to prevent shifting, which may cause breaking of the soil ball and branches. Excessive bending of branches must be avoided when tops are tied in or down. All plants with leaves and/or transported long distances shall be transported in an enclosed truck or covered with heavy canvas to prevent wind whipping and drying out while in transit. Plants in leaf shall be covered immediately before being transported and the cover shall be removed immediately after arriving at the planting site to avoid high temperatures which can severely injure the plants.
- E. Unloading. Hand push carts shall be used to move balled and burlapped plants to the planting hole when unloaded from the truck. Plant material set off at the planting site shall be protected from freezing, drying out, breaking apart, overheating and other injuries. Plants that will not be planted immediately shall be protected from drying by the sun and wind.

31.05 LOCATION OF PLANT MATERIAL

- A. Street Trees. A list of designated locations (i.e., addresses) for street trees will be provided by the City Arborist when bid(s) has been awarded. Planting locations will be marked by the City with paint or wooden stakes. The Contractor is to inform the City Arborist on a daily basis by no later than 8:00 a.m. as to what locations have been planted during the prior day and where planting will resume. Access to the planting sites will be restricted to roads for all vehicles. Permission to travel with any equipment anywhere other than the established roads must be obtained from the Engineer.
- B. Park Trees. A list of designated locations for park trees will be provided by the City Engineer when bid(s) has been awarded. Planting locations will be marked by the City with paint or wooden stakes. The Contractor is to inform the Engineer on a daily basis by no later than 8:00 a.m. as to what locations have been planted during the prior day and where planting will resume. Access to the planting sites will be restricted to roads for all vehicles. Permission to travel with any equipment anywhere other than the established roads must be obtained from the Engineer.
- C. Under Ground Facilities. Contractor will be responsible for having all underground utilities properly located prior to digging/planting. Any utility relocates that are necessary will also be the responsibility of the contractor including any costs associated with them and not the City of Lincoln. Planting sites less than five (5) feet from lateral underground utility lines (i.e. electric, gas, water, etc.) shall require contacting the City Arborist for street trees or Engineer for park trees so that alternate planting location(s) can be marked.

31.06 INSTALLATION OF PLANT MATERIAL

- A. Trees may be moved and planted with an approved mechanical tree spade. The tree spade shall have a manufacturer's size rating equal to or exceeding the tree sizes to be moved. The machine shall be approved by the City Arborist or the Engineer prior to use. Trees shall be planted at the designated locations in the manner as shown in the plans and in accordance with sections of the Specifications that are applicable.
- B. The holes for the plant material shall be excavated to the dimensions shown on the plans. Tree pits are to be dug as deep as the root ball or root system and shall be at least twice as wide as the root ball or root system to permit loose backfill to be worked down and around the root ball or root system. Tree pits may either be dug manually or mechanically using an auger or tree spade.
- C. (Refer to detail on page 3107, showing root ball in reference to soil line and back-fill)
- D. Glazing of the sides of the planting pits dug with shovels, mechanical augers, or tree spades shall be minimized by scarifying or roughening before backfilling to provide for easier lateral outward growth of the developing roots. All tree pits shall be backfilled manually.
- E. Planting pits shall be backfilled the same day they are dug. If any planting pits are to be left open when work is not in process or create a safety hazard to the public, they shall be covered over or properly barricaded.
- F. Plants shall be lifted and handled with suitable support of the soil ball to avoid damage. Container and balled and burlapped plant material shall be lifted, carried and/ or lowered by the root ball, never by the trunk.
- G. Plants shall be set at the same relationship to finished grade as they were grown in the nursery. Plants should not be planted deeper than they were in their former growing location. To eliminate settling, the bottom of the planting hole shall be undisturbed soil so that it will give solid support to the bottom of the root ball or root system.
- H. Plants must be plumb (straight) and centered in the planting hole before backfilling and after planting is complete.
- I. Fertilizer shall be either 9-45-15 as a liquid application or an approved root biostimulant. Apply according to the directions on the label.
- J. If the plant is in a container or pot, the plant shall be carefully removed from the container or pot and the exterior of the root ball manually loosened to encourage roots to grow out into the surrounding soil prior to setting the plant in the planting hole.

- K. If the plant is balled and burlapped all rope, strings, twine, wire, and wrapping from the top one-half (½) of the ball shall be removed after the plant has been set in the planting hole. The balance of the wrapping is to be left intact around the root ball. All waterproof or water repellant wrappings shall be removed entirely from the ball.
- L. If large or numerous rocks, construction debris, fill, tree roots or other obstructions are encountered in digging planting pits, suitable alternate locations shall be selected by the City Arborist or the Engineer. Where such obstructions are encountered, the Contractor shall proceed with doing other planting work at different designated locations and not stop work. Under no circumstances shall pits that have such obstructions be left open and shall be backfilled by the Contractor before leaving the site.
- M. Planting pits are to be backfilled with the same soil that is excavated from them. Topsoil and subgrade soil shall be loosened and mixed to a depth twelve (12) inches before backfilling. Topsoil shall be gently firmed around the plant to hold it in place and to eliminate air pockets. When pits are approximately two-thirds (2/3) full, they are to be thoroughly watered to also eliminate air pockets. After this initial watering, topsoil is to be installed to the top of pit and watered. Puddled soil conditions resulting from over watering are to be avoided.
- N. After the planting pit has been completely backfilled, make a ridge of soil two (2) to four (4) inches in height is to be formed around the outside margin of the pit to create a reservoir for watering.
- O. Top of planting pits are to be mulched with a two (2) to four (4) inch layer of wood chips immediately after planting.
- P. Plants are to be thoroughly watered immediately after planting. Over watering is to be avoided. Contractor must supply water and equipment needed (e.g., water truck, hose, buckets, etc.) to water trees. Under no circumstances shall water from homes be used by the Contractor to water trees. Watering from fire hydrants may be used only after securing a permit and meter from the City Water Department.

31.07 PRUNING OF PLANT MATERIAL

Pruning shall only be done at the time of planting if necessary. All broken, weak and interfering (i.e., crossing or rubbing) branches shall be properly removed by the Contractor after the tree has been planted. Drop crotch pruning shall be done and pruning cuts properly made so that the branch collar and/or branch bark ridge are not cut. All other sound and healthy branches shall be left intact to provide maximum leaf surface to manufacture food for crown and root growth.

31.08 STAKING AND SUPPORT OF PLANT MATERIAL

Wrapping of trunks with tree wrap is not required. All existing tree wrap, if any, shall be removed from trunks immediately after planting.

Staking of all upright deciduous trees is required. Staking of coniferous trees is not required.

Staking shall be required after planting Street Trees and Park Trees. Staking of Street Trees shall be completed immediately after planting unless staking is not specified.

Street Trees are to be secured after planting by a single support stake driven at approximately a 45° (degree) angle to the ground plane avoiding the root ball. Stakes are to be driven to a minimum depth of 12 inches into undisturbed soil. Trees should be secured to stakes using nylon webbing configured in a "Figure 8" allowing for flexibility of the tree trunk, while transferring support from the stake to the tree.
Refer to Page 3107 for detail.

Deciduous Park Trees are to be secured after planting by two support stakes driven at approximately 90° (degree) angle to the ground plane avoiding the root ball. Stakes are to be driven to a maximum depth of 12 inches into undisturbed soil. Trees should be secured to stakes using nylon webbing configured in a "Figure 8" allowing for flexibility of the tree trunk, while transferring support from the stake to the tree.
Refer to Page 3107 for detail.

Tree guards shall be installed on all deciduous trees. The guards shall be plastic and will be provided by the City.

31.09 MARKING PARK TREES

Park trees shall be marked with materials provided by the City to aid in monitoring plantings from year to year. Deciduous trees shall be marked with a circle of spray paint approximately two (2) inches in diameter at the base of the trunk. Coniferous trees shall be marked with a colored tag placed on a side branch, not on the central leader.

31.10 CARE INSTRUCTIONS FOR STREET TREES

Instructions on the care of street trees will be provided by the City for the Contractor to distribute immediately at each planting location. The contractor is to leave the instructions in the form of a "door hanger" at the door of the adjoining residence or commercial property. Door hangers are not to be placed in mail boxes.

31.11 ACCEPTANCE AND ESTABLISHMENT PERIOD

- A. Upon completion of planting the Arborist or Engineer will inspect the plant material for acceptability. The Contractor will be notified of the dates of this inspection. All items of work as required in the Specifications, the Special Provisions, and the plans shall have been performed prior to this inspection. Any item not been completed may make a plant unacceptable. Unacceptable plant material may be allowed to remain in place without payment. A subsequent inspection may be made thirty (30) days subsequent to the initial inspection to determine the acceptability of plant material and therefore, allowing payment for such plants.
- B. The establishment period will follow the completion of all planting and shall extend for a period of one year. The establishment period will not begin until all of the following items of work as required in the Specifications, the Special Provisions, and the plans have been performed on each and every plant material; including proper planting, backfilling, watering, pruning, staking, supporting, water basin construction and mulching. All plant material shall be in viable growing condition when the project enters the establishment period.
- C. During the guarantee period, the City shall properly maintain all plant materials planted under the contract. The establishment procedures shall include additional pruning, protective measures against pests and diseases, watering as often as required by necessity, cultivating, repairing damage to the watering basin, replacing mulch which becomes displaced, keeping the stakes firm and support ties adjusted, weeding with a pre-emergence weed control or other approved means and other establishment procedures as deemed necessary by the City Arborist or Engineer including the removal of any dead plant material from the project.
- D. Upon completion of the establishment period, the City Arborist or Engineer will make an inspection of the plant material to identify plant material to be replaced under warranty. The inspection will normally be made during the month that the establishment period terminates. The Contractor will be notified of the dates of this inspection. A list of plant material quantities and locations will be provided to the contractor for replacement. Replacement of plant materials shall occur within thirty (30) days of receipt of this list. Plant replacement shall be at the Contractor's expense. Establishment procedures that have not been performed shall be brought to the Contractor's attention and may cause the establishment period to be extended. All replacement plant material shall receive the establishment procedures referred to in Section 31.07. The Contractor will be notified in writing when his/her establishment responsibilities on the acceptable plant material have been terminated.

31.12 REPLACEMENT OF PLANT MATERIAL AND GUARANTEE PERIOD

The guarantee period for trees shall begin at the date of acceptance.

The Contractor shall guarantee all plant material to be in healthy and flourishing condition for a period of one (1) year from date of acceptance.

The Contractor shall replace, without cost, and as soon as weather conditions permit and within a specific planting period, all plants determined by the City Arborist or Engineer to be dead during or at the end of the guarantee period.

Replacement plants shall be free of dead or dying branches and branch tips shall bear foliage of normal density, size and color if in leaf. Replacements shall closely match adjacent specimens of the same species that have been planted. Replacements shall be subject to all requirements, standards, special provisions and specifications stated herein.

The guarantee of all replacement plants shall extend for an additional period of one (1) year from date of their acceptance and installation. In the event that replacement plants are not acceptable during or at the end of the said extended guarantee period, the City Arborist or Engineer may elect subsequent replacement or credit (refund) for them.

31.13 VANDALISM

Trees damaged as a result of vandalism are not required to be replaced as apart of this contract.

31.14 QUALIFICATIONS FOR SUBMITTING BIDS

Contractor (s) must be licensed according to the Nebraska Administrative Code for Plant Protection and Plant Pest Act.

31.15 REQUIREMENTS FOR SUBMITTING BIDS

All bids submitted must include the following information on the BID PROPOSAL:

Interested parties may complete and submit bid PROPOSAL for any or all of the four quads.

The unit price (i.e., cost per plant) for each species listed on bid PROPOSAL is to include furnishing, delivery and planting at various locations throughout the City of Lincoln. Plant material as specified on the bid PROPOSAL which cannot be furnished, delivered and planted should be noted in writing as "not available" on the bid PROPOSAL form.

The number of plants which can be furnished is to be entered on the bid form. This number may include all, or only a portion of the total quantity needed per plant species.

Total price is the unit price multiplied by the quantity that bidder can provide in relation to the quantity needed per plant species.

All bid prices shall be firm and shall include all necessary labor, materials and equipment required as specified within these specifications.

Bids submitted shall conform to the contract forms and the specific requirements of these specifications.

Specified plant materials shall conform to the measurements specified on the bid PROPOSAL list, except that plants larger than specified may be accepted if approved by the City Arborist or Engineer. Acceptance of such plant materials shall not increase the unit price indicated on the bid PROPOSAL nor be an additional cost to the City.

CONTRACT DOCUMENTS

CITY OF LINCOLN

NEBRASKA

CITY OF LINCOLN, NEBRASKA

CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this ____ day of _____ 2003, by and between _____ hereinafter called contractor, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called the City.

WITNESS, that:

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

_____, and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract;

EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the City have agreed and hereby agree as follows:

The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute construct, and compete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefor, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

\$

CONTRACT AGREEMENT

CONTRACT AGREEMENT

The Work included in this Contract shall begin as soon as possible from date of executed contract. The completion shall be _____.

GUARANTEE:

A performance bond in the full amount of the contract shall be required for all construction contracts. This bond shall remain in effect during the guarantee period as stated in the specifications.. Once the project is completed, the contractor may submit a maintenance bond in place of the performance bond.

The Contract Documents comprise the Contract, and consist of the following:

1. The Instructions to Bidders
2. The Accepted Proposal
3. The Contract Agreements
4. The Specifications
- *5. The City of Lincoln Standard Specifications for Municipal Construction
 - a. General Conditions
 - b. General Specifications
 - c. Construction & Materials Specifications
- ** 6. The Plans (including the Schedule of Approximate Quantities)
7. The Construction Bonds
8. The Special Provisions

* If project includes paving, water, sewer, sidewalk, lighting or traffic signal work, the City of Lincoln Standard Specifications for Municipal Construction will apply, which are on file in the office of the City Clerk. Copies may be obtained at the Office of the City Engineer.

** The following is an enumeration of the Plans, which are entitled:

CONTRACT AGREEMENT

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and the are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

Mayor

Approved by Executive or No. _____
dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

Name of Corporation

(Address)

ATTEST:

Secretary (SEAL)

By: _____
Duly Authorized Official

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

(Address)

By: _____
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Signature

A. GENERAL INFORMATION

There are two types of construction bonds that are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

Construction Performance Bond

Construction Payment Bond

The Construction Performance Bond is an instrument that is used to assure the availability of funds to complete the construction.

The Construction Payment Bond is an instrument that is used to assure the availability of sufficient funds to pay for labor, materials and equipment used in the construction. For public work the Construction Payment Bond provides rights of recovery for workers and suppliers similar to their rights under the mechanics lien laws applying to private work.

The objective underlying the re-writing of construction bond forms was to make them more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond forms provide helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Construction Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Construction Performance Bond. Procedures for making a claim under the Construction Payment Bond are set forth in the form.

EJCDC recommends the use of two separate bonds rather than a combined form. Normally the amount of each bond is 100 percent of the contract amount. The bonds have different purposes and are separate and distinct obligations of the Surety. The Surety Association reports that the usual practice is to charge a single premium for both bonds and there is no reduction in premium for using a combined form or for issuing one bond without the other.

B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Both bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond forms are prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bonds.

Each bond must be executed separately since they cover separate and distinct obligations.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

CONSTRUCTION PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal
Place of Business):

Owner (Name and Address):

City of Lincoln

555 South 10th St.

Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:

Amount: \$

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: _____

Name and Title:

Signature: _____

Name and Title:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: _____

Name and Title:

Signature: _____

Name and Title:

EJCDC NO. 1910-28a (1984 Edition)

Prepared through the joint efforts of The Surety Assoc. of America. Engineers' Joint Contract Documents Committee. The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract, or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors: or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default, or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and as soon as practicable after the amount is determined tender payment therefor to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related sub-contracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
 - 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

CONSTRUCTION PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place
Of Business):

Owner (Name and Address):

City of Lincoln
555 South 10th St.
Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:

Amount: \$

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount: \$

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: _____

Name and Title:

Signature: _____

Name and Title:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: _____

Name and Title:

Signature: _____

Name and Title:

EJCDC NO. 1910-28B (1984 Edition)

Prepared through the joint efforts of The Surety Assoc. of America. Engineers' Joint Contract Documents Committee. The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
 2. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
 3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
 4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who do not have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof to the Owner, stating that a claim is being made under this Bond and with substantial accuracy the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed, and
 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
 5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
 6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
 7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
 8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond.
- By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to the funds for the completion of the work.
9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
 11. No suite or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.1 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
 12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
 14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
 15. DEFINITIONS
 - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.